

REMARKS

Turning to the art rejections, and considering first the rejection of claims 1, 2, 7, 11, 13, 14, 19, 20, 21, 27, and 28 under 35 USC §102 as being anticipated by US Published Patent Application 2003/0053414 to Akahane et al. (hereinafter "Akahane"), independent claims 1, 13, 20 and 27 all require, in part, "data transmission works in a **predetermined** communication protocol" and "a forwarding section for forwarding control information included in the transmission signal to the transmitting section **without** controlling the control information according to the **predetermined communication protocol**." (emphasis added). Akahane does not teach data transmission in a predetermined communication protocol but teaches a Multi Protocol Label Switching (MPLS) network which is specifically neutral or indifferent towards protocol. Additionally, Akahane does not forward control or header information but instead rewrites it, adding a label to the packet. (Akahane claim 1; [0004]).

On page three of the Office Action, Examiner erroneously identifies the control information within the packet as being "transmitted through the MPLS network without the encapsulated control information being used." In Akahane, the control information is part of the encapsulated packet, is created or changed by the Output Shim Header Generating section and is specifically used to determine the packet's output line. (Akahane Fig. 12; [0007,0046]). Therefore, because Akahane teaches neither data transmission working in a predetermined communication protocol nor forwarding data without controlling the control information, rejection under 35 U.S.C. § 102 is inappropriate for independent claims 1, 13, 20 and 27 and for claims 2, 7, 11, 14, 19, 21 and 28 which depend thereon, as the case may be.

Turning to the rejection of claims 3-6, 8-10, 12, 15-18, 22-26, 28 and 29 as obvious from Akahane in view of US Published Patent Application 2002/0085590 to Booth, these

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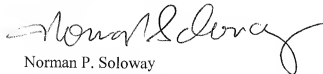
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claims are directly or indirectly dependent on independent claims 1, 13, 20 or 27, as the case may be. Booth does not teach a simple transfer of unaltered control information from the Data Communications Channel (DCC), but instead teaches inserting user data into the DCC which alters the control information. (Booth Abstract; [0006]). Therefore, because of the deficiencies of Akahane and because Booth fails to supply its missing teachings, no combination of Akahane and Booth could be said to achieve or render obvious independent claims 1, 13, 20 and 27 or claims 3-6, 8-10, 12, 15-18, 22-26, 28 and 29 which depend thereon.

Having dealt with all the objections raised by the Examiner, the Application is believed to be in order for allowance. Early and favorable action is respectfully requested.

In the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account Number 08-1391.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: MAIL STOP Amendment Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 18, 2009, at Tucson, Arizona.

By 

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